

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT MICHIGAN
SOUTHERN DIVISION**

CHINA MART USA LLC
a California limited liability company,

Case No: 1:12-cv-00968

Hon. Robert J. Jonker

Plaintiff and Counterdefendant;
v.

AMERICAREERS, LLC d/b/a CHINA MART, LLC
a Michigan limited liability company,

Defendant and Counterclaimant.

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**PLAINTIFF CHINA MART USA LLC'S OBJECTIONS TO EVIDENCE SUBMITTED
BY DEFENDANT AMERICAREERS LLC'S IN SUPPORT OF DEFENDANT'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff hereby submits Plaintiff's Objections to Defendant AmeriCareers, LLC's Declarations.

OBJECTIONS TO DECLARATIONS

Objections to Declaration of Dan Ouyang

Objection No. 1.

“In addition to providing the services offered by my company, AmeriCareers LLC, I have had a longstanding interest in taking advantage of my knowledge and connections in both China and the United States by becoming involved in international trading between the two countries.”
(Ouyang Declaration, ¶ 5).

Grounds for Objection

Vague as to “taking advantage.”

Objection No. 2.

“On December 26, 2007, I registered a new company ‘China Mart, LLC’ in the state of Michigan. Although this new company does very different business from the career services, instead of registering ‘China Mart, LLC’ as a completely separate business identity, I chose to register it as an assumed name under my company ‘AmeriCareers LLC’ for convenience.”
(Ouyang Declaration, ¶ 6).

Grounds for Objection

Vague as to “very different business.”

Objection No. 3.

“Since the acquisition, it has been my intention to develop an online China trading center or shopping center for selling goods and products made in China on the ‘ChinaMart.com’ website.”
(Ouyang Declaration, ¶ 8).

Grounds for Objection

Conclusory; Vague as to time; Vague as to “intention” and “China trading center or shopping center”.

Objection No. 4.

“Since the acquisition, I have continued Mr. Rohland’s commercial use of ‘ChinaMart.com’, and have used it for advertising third party services related to Chinese business, China trading, and online shopping during 2008, 2009 and 2010.”

(Ouyang Declaration, ¶ 9).

Grounds for Objection

Conclusory; Calls for a legal conclusion as to “commercial use”; Lack of personal knowledge (FRE § 602), as Ouyang owned many websites and had this one, and possibly others, parked with third party advertisers who took control of the website, which means that it cannot be assumed that he had regular contact with the website or that he even visited it or knew of its contents; Foundation defective, for the same reasons as stated immediately prior; Speculative; Vague; Vague as “commercial use”, “advertising”, and “services”; Argumentative.

Objection No. 5.

“Since late July 2010, my company website www.ChinaMart.com has been integrated with the world’s largest online retailer, Amazon.com, and has been used as Defendant’s online China trading and shopping center for selling goods available on Amazon.com, many of which are made in China.”

(Ouyang Declaration, ¶ 10).

Grounds for Objection

Vague as to “integrated” and “trading and shopping center”.

Objection No. 6.

“Prior to this lawsuit, I had not approached Plaintiff or made any attempt to sell the domain name “chinamart.com” to Plaintiff.”

(Ouyang Declaration, ¶ 12).

Grounds for Objection

Irrelevant (FRE §§ 401, 402); Vague as to time.

Objection No. 7.

“Nor have I ever approached any third party in an effort to sell the domain “chinamart.com” to them.

(Ouyang Declaration, ¶ 13).

Grounds for Objection

Irrelevant (FRE §§ 401, 402); Vague as to “approached”.

Objection No. 8.

“I have believed and continue to believe that the term “China Mart” (or “ChinaMart”) is generic or highly descriptive when used in connection with buying and selling goods.”

(Ouyang Declaration, ¶ 14).

Grounds for Objection

Irrelevant (FRE §§ 401, 402); Conclusory; Calls for a legal conclusion as to “generic or highly descriptive when used in connection with buying and selling goods;” Foundation defective; Vague as to time.

Objection No. 9.

“On July 22, 2010, Defendant registered the mark ‘CHINAMART.COM THE SAVINGS CONTINUE’ with the state of Michigan. I have used this phrase as a slogan to convey our message to customers that we are selling low cost goods.”

(Ouyang Declaration, ¶ 15).

Grounds for Objection

Vague as to time when the slogan was used.

Objection No. 10.

“I am not aware of any incidents of actual confusion raised between Plaintiff’s use of the term ‘China Mart’ or ‘ChinaMart’ and Defendant’s use of ‘ChinaMart.com’ or its state registered trademark ‘CHINAMART.COM THE SAVINGS CONTINUE.’”

(Ouyang Declaration, ¶ 17).

Grounds for Objection

Irrelevant (FRE §§ 401, 402); Conclusory; Vague as to time; Speculative.

Objection No. 11.

“After this lawsuit started, China Mart, LLC voluntarily added a disclaimer on every page of its website www.chinamart.com with a statement ‘China Mart LLC (or ChinaMart.com) is NOT affiliated in any way with CHINA MART USA LLC in LOS ANGELES.’”

(Ouyang Declaration, ¶ 18).

Grounds for Objection

Irrelevant (FRE §§ 401, 402); Vague as to time; Vague as to “voluntarily”; Hearsay (FRE § 801, *et seq.*).

Objection No. 12.

“On or about August 22, 2013, I searched the domain WHOIS database from the domain registrar website GoGaddy.com and found that, as of August 22, 2013, the following domain names containing the term ‘China mart’ or close variants were registered to third parties (i.e. not Plaintiff or Defendant)... (list of websites omitted)... It should be noted that some of these domain names were registered several years before Plaintiff’s alleged first use of the term ‘China Mart’ or ‘ChinaMart’, these include the domain name ‘ChinaMart.net’ (registered in 2000); ‘China-Mart.com’ (registered in 2003), ‘ChineseMart.com’ (registered in 2002), ‘China-Mart.us’ (registered in 2005); and ‘ChinasMart.com’ (registered in 1999). Some of these domains are currently advertising services similar to those of Plaintiff, as shown below in this declaration.”

(Ouyang Declaration, ¶ 21).

Grounds for Objection

Irrelevant (FRE §§ 401, 402); Foundation defective, insofar as the scope and implications of the database are not explained, including, but not limited to, the possibility that the registrations have lapsed; Vague as to “database”; Hearsay (FRE § 801, *et seq.*); Argumentative.

Objection No. 13.

“The documents attached as Exhibit A-1 are true and correct copies of printouts and screenshots of Defendant’s website www.chinamart.com for advertising third party services including China business, China wholesales, China goods, online shopping, on the date of February 3, 2008,

August 17, 2008, November 2, 2008, February 25, 2009, and April 18, 2010, respectively. I personally visited these web pages archived by Internet Archive Wayback Machine (www.archive.org) and ScreenShots.com.

Source:

<http://www.screenshots.com/chinamart.com/2008-02-03>

<http://web.archive.org/web/20080817052817/http://www.chinamart.com/>

<http://web.archive.org/web/20081102055315/http://www.chinamart.com/>

<http://www.screenshots.com/chinamart.com/2009-02-25>

<http://www.screenshots.com/chinamart.com/2010-04-18>

Date visited and printed: 8/30/2013.”

(Ouyang Declaration, ¶ 22).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 14.

“The document attached as Exhibit A-2 is a true and correct copy of printout from the website of the Chinese trademark office (i.e., Trademark Office of the State Administration for Industry & Commerce of the People’s of Republic of China). On August 31, 2013, I personally visited the Chinese government official website. This printout shows the record of trademark information in the database of the Chinese trademark office, regarding Plaintiff’s application to register the mark “China Mart” in China. The record shows the following:

Applicant: CHINA MART USA LLC

(Chinese name: (omitted))

Application Filing date: December 12, 2007

International Class: 35 Serial No.: 6432707

Priority date: June 12, 2007

Mark status: invalid

Source: <http://sbj.saic.gov.cn/sbcx/> Date visited and printed: 8/31/2013.”

(Ouyang Declaration, ¶ 23).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 15.

“The documents attached as Exhibit A-4 are true and correct copies of printouts from the web pages of the website www.china-mart.com, which is owned and / or operated by a third party located in the U.S. I personally visited, browsed and/or searched the website for contents on the website that are related to China wholesales, products made in China, China trade shows, loans for business, legal service and business consulting.

Source: <http://www.china-mart.com>

Dates visited and printed: 9/19/2013 and 9/23/2013.”

(Ouyang Declaration, ¶ 25).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 16.

“The documents attached as Exhibit A-5 are true and correct copies of printouts from the web pages of the website www.chinesemart.com, which is owned and / or operated by a third party located in the U.S. I personally visited, browsed and/or searched the website for contents on the website that are related to online shopping, business consulting, financing and legal service.

Source: <http://www.chinesemart.com>

Date visited and printed: 8/18/2013 and 9/23/2013.”

(Ouyang Declaration, ¶ 26).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 17.

“The documents attached as Exhibit A-6 are true and correct copies of printouts from web pages of the website www.chinamart.net, which is hosted in the U.S and its contents are provided by a third party, DomainSponor, located in the U.S. I personally visited, browsed and/or searched the

website for contents on the website that are related to China trade, China business, business consulting, small business finance, and legal services.

Source: <http://www.chinamart.net>

Date visited and printed: 9/19/2013 and 9/23/2013.”

(Ouyang Declaration, ¶ 27).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 18.

“The documents attached as Exhibit A-7 are true and correct copies of printouts from web pages of the website www.china-mart.us, which is hosted in the U.S. and its contents are provided by a third party, Register.com, located in the U.S. I personally visited and browsed the website. The website shows information related to business, sales, marketing, ecommerce, small business and office supplies. Source: <http://www.china-mart.us> Date visited and printed: 9/19/2013.”

(Ouyang Declaration, ¶ 28).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 19.

“The documents attached as Exhibit A-8 are true and correct copies of printouts from web pages of the website www.chinamart.co that I personally visited. The website shows information related to China online shop, China suppliers, product of China, Company in China, and importers from China, etc. The domain WHOIS records show that this domain name was registered by an individual in the U.S.

Source:

<http://www.china-mart.co>

Date visited and printed: 9/20/2013.

<http://www.godaddy.com> (for domain WHOIS)

Date visited and printed: 8/22/2013.”

(Ouyang Declaration, ¶ 29).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 20.

“The documents attached as Exhibit A-9 are true and correct copies of printouts and screenshots of a third party’s website www.BestChinaMart.com that are archived by Screenshots.com and the current website. I personally visited these archived web pages and the current web page. The web pages were archived on May 21, 2006, March 27, 2007, May 25, 2007, March 10, 2007 and December 4, 2007 respectively. The archived web pages show that electronics were being sold on the website under the brand name ‘Best China Mart’ since May 21, 2006, until at least December 4, 2007. The current web site shows commercial advertisements related to China manufacturers and online shopping, etc. The domain WHOIS record shows that the domain was registered by an individual in the US since January 4, 2006.

Source:

<http://www.screenshots.com/bestchinamart.com/2006-05-21>

<http://www.screenshots.com/bestchinamart.com/2007-03-27>

<http://www.screenshots.com/bestchinamart.com/2007-05-27>

<http://www.screenshots.com/bestchinamart.com/2007-10-07>

<http://www.screenshots.com/bestchinamart.com/2007-12-04> <http://www.bestchinamart.com>

<http://www.godaddy.com> (for domain WHOIS)

Date visited and printed: 8/25/2013 and 9/15/2013.”

(Ouyang Declaration, ¶ 30).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*)

Objection No. 21.

“The documents attached as Exhibit A-10 are true and correct copies of printouts from web pages of the following news media websites that I personally visited. The news release and news report, which describe a company planning to open a China Mart in South Florida, were published on November 3, 2004, November 15, 2004, and January 15, 2005 respectively.

Source:

<http://www.globenewswire.com/news-release/2004/11/03/318100/66819/en/China-Direct-Management-Team>Returns-From-Successful-Mission-To-China.html>

<http://www.globenewswire.com/news-release/2004/11/15/318745/67584/en/China-Direct-Trading-Corp-to-Open-China-Mart-in-South-Florida.html>

[http://articles.sun-sentinel.com/2005-01-10/business/0501070723_1 auto-insurance-insurance-fraud-insurance-claims](http://articles.sun-sentinel.com/2005-01-10/business/0501070723_1_auto-insurance-insurance-fraud-insurance-claims)

Date visited and printed: 8/25/2013 and 8/28/2013.”

(Ouyang Declaration, ¶ 31).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 22.

“The documents attached as Exhibit A-11 are true and correct copies of printouts from news media web pages archived by the website <http://www.newsbank.com> that I personally visited and searched. This is a news report about a company intending to build a China mart in St. Louis Missouri, published by St. Louis Post-Dispatch on February 27, 2009

Source: <http://nl.newsbank.com/>

Date visited and printed: 9/2/2013.”

(Ouyang Declaration, ¶ 32).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*)

Objection No. 23.

“The documents attached as Exhibit A-12 are true and correct copies of printouts from web pages of the website <http://www.chinamart.ae> that I personally visited. This website is created by Chinese in United Arab Emirates for business news and other resources. It offers an online digital magazine called ‘CHINAMART (omitted)’ (also as ‘(omitted)'). The Chinese word ‘(omitted)’ means magazine in English. It has published news related to China international trading.

Source: <http://www.chinamart.ae>

Date visited and printed: 9/12/2013 and 9/23/2013.”

(Ouyang Declaration, ¶ 33).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 24.

“The documents attached as Exhibit A-13 are true and correct copies of printouts from web pages of the following websites that I personally visited. These websites advertised the announcements of annual trade shows that were named as ‘China Mart’ in 1998, 1999 and 2000, and which were held in China. An excerpt from the announcement of China Mart ’99 includes:

‘China Mart ’99 will be an opportunity for companies to meet over 10,000 buyers from China’s supermarket and retail sectors. The event will be held in Guangzhou, Guangdong Province, China.’

A-13-1 China Mart ‘98

Source: <http://business.highbeam.com> <http://www.chinatoday.com/inv/a01.htm>

Date visited and printed: 9/2/2013

A-13-2 China Mart ‘99

Source: July 1999 Issue of Wine Business Monthly archived page:

<http://web.archive.org/web/19991115225852/http://smartwine.com/wbm/1999/0799/calendar.htm>

Date visited and printed: 9/4/2013

A-13-3 China Mart ‘2000

Source: <http://www.teaandcoffee.net/0700/calendar.htm> Date visited and printed: 9/2/2013.”

(Ouyang Declaration, ¶ 34).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 25.

“The documents attached as Exhibit A-14 are true and correct copies of printouts of web pages from the following news media web site that I personally visited. The article was published by Youngtown News on April 10, 2011. An excerpt from the article states: ‘Last spring I was in Walmart, which local talk show host Louie Free calls ‘China mart.’ Source: <http://www.vindy.com/news/2011/apr/10/8216made-in-china8217-is-norm/> Date visited and printed: 9/2/2013.”

(Ouyang Declaration, ¶ 35).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 26.

“The documents attached as Exhibit A-15 are true and correct copies of printouts and screenshots of web pages from the following web sites that I personally visited. These printouts and screenshots show other China Marts in other parts of the world, either incorporating their location in their business name or using a Chinese name that is not a direct translation of the English term ‘China Mart’. (Exhibits omitted).”

(Ouyang Declaration, ¶ 36).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 27.

“The documents attached as Exhibit A-16 are true and correct copies of printouts of web pages from the following websites that I personally visited. The printouts show an organization called ‘Overseas China Marts Association (OCMA)’ was created on June 22th, 2013 in Shenzhen, China. It helps promote international trading with China and cooperation among overseas China Marts.

Excerpts from the news articles:

‘Inaugural Meeting of Oversea China Marts Association Successfully Held’

‘OCMA provide a new oversea sales and marketing platform for Chinese high quality enterprises and products to implement the strategy of ‘going out’ and ‘introduced to’ successfully...’

Source:

http://www.investorag.com/news_detail.asp?id=13

<http://www.chinamex.cn/english/show.asp?id=197>

<http://www.comexholdings.com/en/MediaCenter/Details/240>

Date visited and printed: 9/26/2013.”

(Ouyang Declaration, ¶ 37).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 28.

“The documents attached as Exhibit A-17 are true and correct copies of printouts of web pages from Plaintiff’s website that I personally visited.

Source: <http://www.chinamartusa.com/faq/>

Date visited and printed: 9/24/2013.”

(Ouyang Declaration, ¶ 38).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 29.

“The document attached as Exhibit A-18 is true and correct copy of printout of web page from Florida state government website that I personally visited and searched the results with the keyword “china mart”. The results show that at least 3 companies have used the term “China Mart” for their business names.

Source: <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>

Date visited and printed: 9/24/2013.

(Ouyang Declaration, ¶ 39).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 30.

“The document attached as Exhibit A-19 is true and correct copy of printout of web page from California state government website that I personally visited and searched the results with the keyword “china mart”. The results show that at least 3 companies have incorporated the words “China” and “Mart” in their business names.

Source: <http://kepler.sos.ca.gov/>

Date visited and printed: 9/24/2013.”

(Ouyang Declaration, ¶ 40).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 31.

“The documents attached as Exhibit A-20 are true and correct copies of printouts of web pages from the following Chinese government newspaper website that I personally visited. The news article discussed the situation and issues when more and more China Marts are being set up all over the world.

Source: <http://chinese.people.com.cn/GB/42314/5899584.html> (published on 6/22/2007) Date visited and printed: 9/24/2013.”

(Ouyang Declaration, ¶ 41).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 32.

“The documents attached as Exhibit A-21 are true and correct copies of printouts of web pages from the following Chinese websites that I personally visited.

This following news article reported that Plaintiff started China Mart Los Angeles project in October 2007. Plaintiff formally used its Chinese name ‘(omitted)’ (i.e. ‘China Mart Los Angeles’ in English). This Chinese name was prominently shown in its news conference.

Source:

<http://gd.news.sina.com.cn/finance/2007-10-18/3768465.html> (published on 10/18/2007) Date visited and printed: 9/24/2013.

This following article reported that China's Canton Fair partnered with Plaintiff to set up the first China Mart in the U.S., '(omitted)' (i.e. 'China Mart Los Angeles' in English), published on October 18, 2007.

<http://www.mofcom.gov.cn/aarticle/subject/jckjyhi/lanmuerf/200710/20071005163624.html>
Date visited and printed: 9/28/2013.

Plaintiff has also used the same Chinese name '(omitted)' (i.e. "China Mart Los Angeles") as its official Chinese business name on its website www.chinamart.us (see Exhibit D-3 for Bates Nos. AMC000028 – AMC000035, attached to Defendant's Brief in Support of Its Motion for Partial Summary Judgment). In addition, it shows that Plaintiff has used the registered sign ® next to its Chinese name '(omitted)' a term that has not been registered with the U.S. PTO."

(Ouyang Declaration, ¶ 42).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 33.

"The document attached as Exhibit A-22 is true and correct copy of printout of a web page from the US online shopping site 'eBay.com' that I personally visited. It shows that an eBay online store named 'Fashion China Mart'.

Source: <http://stores.ebay.com/Fashion-China-Mart>

Date visited and printed: 8/25/2013."

(Ouyang Declaration, ¶ 43).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 34.

“The documents attached as Exhibit A-23 are true and correct copies of printouts of web pages from the following websites that I personally visited. These web pages show consumers often refer the US retailers Wal-Mart, K-Mart and other stores as a ‘China Mart’. (Exhibits omitted)” (Ouyang Declaration, ¶ 44).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 35.

“The documents attached as Exhibit A-24 are true and correct copies of printouts of web pages from Plaintiff’s website and / or its affiliated website that I personally visited. These printouts show Plaintiff’s uses or its permitted uses of its marks for services such as publishing service and use of the registered sign (®) to the term ‘China Mart USA ®’ that Plaintiff has not registered with the U.S. PTO.

Source:

<http://doingbusinesswithchina.net>

<http://www.chinamartusa.com/doing-business-with-china-the-secrets-of-dancing-with-the-dragon-by-stephen-perl/>

Date visited and printed: 9/25/2013.”

(Ouyang Declaration, ¶ 45).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 36.

“46. The documents attached as Exhibit A-25 are true and correct copies of printouts of web pages from third party websites that I personally visited. These printouts show some additional third parties’ online ChinaMarts that are accessible from the United States through the World Wide Web. (Exhibits omitted).”

(Ouyang Declaration, ¶ 46).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 37.

“The documents attached as Exhibit A-26 are true and correct copies of printouts and screenshots of archived and current web pages from Defendant’s website www.chinamart.com. I personally visited these web pages archived by Screenshots.com and Archive.org. No web page was archived during 2012 because web archiving was blocked by Defendant’s ‘robots.txt’ program placed on Defendant’s server. (Exhibits omitted).”

(Ouyang Declaration, ¶ 47).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*)

Objection No. 38.

“The documents attached as Exhibit A-27 are true and correct copies of the specimens Plaintiff had submitted to the U.S. Patent and Trademark Office (the PTO) when Plaintiff applied to register its alleged marks ‘China Mart’ and ‘ChinaMart’. I personally visited the PTO website and downloaded the .PDF file of Plaintiff’s specimens from the PTO’s Trademark Status & Document Retrieval (TSDR) system on 9/29/2013.

Source: <http://www.uspto.gov>

Date visited and downloaded / printed: 9/29/2013. (Exhibits omitted). ”

(Ouyang Declaration, ¶ 48).

Grounds for Objection

Foundation defective; Lacks authentication; Hearsay (FRE § 801, *et seq.*).

Objections to Declaration of Gary Rohland

Objection No. 39.

“Sometime prior to April 2005, I bought the domain name CHINAMART.COM.”
(Rohland Declaration, ¶ 2).

Grounds for Objection

Speculative; Vague as to time.

Objection No. 40.

“The document attached as Exhibit 1 hereto includes a fair and accurate depiction of the contents of the web page located at www.chinamart.com as it appeared on or around April 13, 2005. As part of the services offered at that time, I offered the services of Chinese speaking actors to assist in making commercials.”

(Rohland Declaration, ¶ 4).

Grounds for Objection

Foundation defective; Lack of authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 41.

“On May 7, 2007, I formed the company ‘ChinaMart.com Inc.’ in the state of Florida. The document attached as Exhibit 2 hereto is a fair and accurate depiction of the Articles of Incorporation for the company. Article III of this document provided that the company was organized for the purpose of performing any and all lawful business.”

(Rohland Declaration, ¶ 5).

Grounds for Objection

Lack of authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 42.

“In May 2007, I began to develop www.chinamart.com as a distinctive business to business trade portal with the goal of having a presence in both China and the U.S. to better serve the business communities of both countries. The document attached as Exhibit 3 hereto includes a fair and

accurate depiction of the contents of the web page located at www.chinamart.com as it appeared on or around June 2, 2007.”

(Rohland Declaration, ¶ 6).

Grounds for Objection

Foundation defective; Lack of authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 43.

“During some periods from 2005 to 2007, I also parked the www.chinarnart.com web page with content provided by the third party service providers AfterNIC and Network Solutions. As shown in the attached exhibit, these third party service providers displayed commercial advertisements on the web page. These commercial advertisements often related to ecommerce, online shopping, Chinese business, Chinese trade, and/or Chinese Travel. The documents attached as Exhibit 4 hereto include fair and accurate depiction of the contents of the web pages located at www.chinarnart.com as they appeared on or around August 28, 2005, November 10, 2005, October 5, 2006, December 16, 2006, and April 23, 2007, respectively.”

(Rohland Declaration, ¶ 7).

Grounds for Objection

Foundation defective; Lack of authentication; Hearsay (FRE § 801, *et seq.*).

Objection No. 44.

“Prior to learning about the lawsuit China Mart USA, LLC v. Americareers, LLC, I had not been approached by any individual or business entity with regard to trademark rights or prior use in connection with the domain name CHINAMART.COM.”

(Rohland Declaration, ¶ 10).

Grounds for Objection

Calls for a legal conclusion as to whether a communication or inquiry regarded “trademark rights or prior use”; Vague as to “approached”.

Respectfully submitted,

Dated: October 31, 2013

China Mart USA, LLC

By: /s/ Scott E. Shapiro
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 31st day of October, 2013, a true copy of the foregoing was filed electronically with the clerk of the Court using the Court's ECF system, which will send notification of such filing to all attorneys of record. PLAINTIFF CHINA MART USA LLC'S OBJECTIONS TO EVIDENCE SUBMITTED BY DEFENDANT AMERICAREERS LLC'S IN SUPPORT OF DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT was filed and served via overnight delivery on the following counsel of record:

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